

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ALVIN LEE McNEILL, SR.,	:	
	:	Civil Action No. 4:CV-07-403
Plaintiff,	:	
	:	
v.	:	(Judge McClure)
	:	
ADMINISTRATOR HARRELL	:	
WATTS, et al.,	:	
	:	(Magistrate Judge Smyser)
Defendants.	:	

ORDER

August 12, 2008

BACKGROUND:

On March 2, 2007, plaintiff Alvin Lee McNeill, Sr., proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983. On September 17, 2007, plaintiff filed an amended complaint.

The matter was initially referred to United States Magistrate Judge J. Andrew Smyser.

On July 9, 2008, the magistrate judge filed a four page report and recommendation which recommended that plaintiff's amended complaint be dismissed for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. (Rec. Doc. No. 87.) Specifically, the magistrate judge applied the

factors in Poulis v. State Farm Fire and Casualty, 747 F.2d 863, 868 (3d Cir. 1984), and concluded that plaintiff had abandoned the action due to his repeated failure to file a brief in response to defendants' motion to dismiss/summary judgment or a response to defendants' statement of material facts. (Id.)

No objections have been filed to the magistrate judge's report and recommendation. Because we agree with the magistrate judge's thorough analysis that the action should be dismissed pursuant to Rule 41(b) and because plaintiff has not filed any objections, we will adopt the magistrate judge's report and recommendation in its entirety. We will not rehash the sound reasoning of the magistrate judge. Plaintiff has clearly abandoned this action and dismissal is appropriate under Rule 41(b) based on application of the Poulis factors.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. United States Magistrate Judge J. Andrew Smyser's Report and Recommendation is adopted in full. (Rec. Doc. No. 87.)
2. The amended complaint is DISMISSED for failure to prosecute.
3. The clerk is directed to close the case file.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge